IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 2311 of 2005

Between:

Rahman Shareef, S/o. Sk. Dawood,
R/o. H.No. IC 165, Erramanzil Colony, Hyderabad.

..... PETITIONER

AND

1 The Estate Officer, Hyderabad & Secunderabad at Khairatabad, Hyderabad.
2 The Commissioner & Director of Agriculture, L.B. Stadium,Hyderabad.
3 The Government of Andhra Pradesh, Rep. by its Secretary, G.A. (Accommodation) Dept., Secretariat, Hyderabad.
4 The Station House Officer, P.S. Panjagutta, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Mandamus, declaring the action of the 1st respondent passed the impugned eviction Proc. No.B1/A2/IC-165/IM/171/1999 dt.4-2-2005 as illegal, arbitrary and the one passed in violation of directions of this Hon'ble Court in W.P.No.10378/2001 dt.15-12-2004 and consequently set aside the same as such and pass such other orders as necessary in the interests of justice.

Counsel for the Petitioner: MR.K.RAM REDDY

Counsel for the RespondentNos.1 to 4: GP FOR GENERAL ADMINISTRATION

The Court made the following :

THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION No. 2311 of 2005

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The petitioner herein is a retired Government employee and he is in occupation of Government Accommodation I.C. 165 at Erramanzil Colony, Hyderabad.

As can be seen from the eviction proceedings impugned dated 04.02.2005, an order was passed under Section 5 (1) of the Andhra Pradesh Public Premises (Eviction of unauthorized occupants) Act, 1968, granting 30 days time to the petitioner to vacate the quarter in question. However, he failed to vacate the same and consequently, the proceedings impugned were passed by the Estate Officer, Hyderabad requesting the Inspector of Police to take necessary steps to take possession of the premises in question from the petitioner. The said action of the respondents is questioned in this writ petition.

The learned Counsel for the petitioner while placing reliance upon a decision in W.P.No.10378 of 2001 dated 15.12.2004 submits that the respondents ought to have allowed the petitioner to continue in possession of the premises in question up to 30th June, 2005 on par with the petitioners in W.P.No.10378 of 2001. I am unable

to agree with the said contention of the learned Counsel for the petitioner. As can be seen from the said order in W.P.No.10378 of 2001, the petitioners therein claimed that they were entitled to purchase the quarters in their occupation and approached this Court seeking a declaration that they are not liable to be evicted. This Court though declined to grant the relief as prayed for, keeping in view the facts and circumstances of the case permitted the retired employees to continue in possession of the premises up to 30th June, 2005.

However, so far as the petitioner, in the case on hand is concerned, there was already an order of eviction passed by the Estate Officer in exercise of the powers conferred under the Andhra Pradesh Public Premises (Eviction of unauthorized occupants) Act, 1968, which has admittedly become final. The impugned order being only a consequential order, I do not find any justifiable reason to hold that the same is either arbitrary or illegal. Since the petitioner cannot be placed on par with the petitioners in W.P.No.10378 of 2001, he cannot be permitted to continue till 30-06-2005.

However, keeping in view the inability expressed by the petitioner to vacate the premises, I deem it appropriate to grant him time till the end of this month. Accordingly, the writ petition is disposed of granting time to the petitioner to vacate the premises in question till 28.02.2005 subject to the condition that the petitioner furnishes an undertaking before the 1st respondent-Estate Officer within three days from today that he would hand over the vacant possession of the premises in question on or before 28.02.2005.

The writ petition is accordingly disposed of. No order as to costs.

11thFebruary,2005 bud

Copy to:

1. The Estate Officer, Hyderabad & Secunderabad,
   At Khairatabad, Hyderabad.
2. The Commissioner & Director of Agriculture,
   L.B. Stadium, Hyderabad.
3. The Secretary, The Government of Andhra Pradesh,
   G.A.(Accommodation) Department, Secretariat,
   Hyderabad.
4. The Station House Officer, P.S./ Panjagutta,
   Hyderabad.
5. Two C.Cs to the Government Pleader for General
   Administration, High Court Buildings, High Court

Of Andhra Pradesh, Hyderabad (O.U.T.)

6. Two C.D.Copies.